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LETTER DATED 11 JUNE 1997 FROM THE EXECUTIVE CHAIRMAN OF THE SPECIAL COMMISSION ESTABLISHED BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 9 (b) (i) OF SECURITY COUNCIL RESOLUTION 687 (1991) ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In the course of the informal consultations on Iraq in the Security Council this morning, you informed the members of the Council that copies were being circulated to them of the letters dated 5 and 6 June 1997 addressed to the Special Commission by the Deputy Prime Minister and the Under-Secretary for Foreign Affairs of Iraq, respectively.

As both these letters are in response to communications of 4 and 5 June 1997, the first from me and the second from the Deputy Executive Chairman addressed to the Deputy Prime Minister of Iraq, I believe it would be useful to provide copies of these letters to the members of the Council so that they have the complete record at their disposal. I am, therefore, enclosing herewith copies for such action as you deem appropriate (see annexes I and II).

(Signed) Rolf EKÉUS
Executive Chairman

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Annex I

Letter dated 4 June 1997 from the Executive Chairman of the Special Commission Established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the Deputy Prime Minister of Iraq

I write to you to express my most serious concern over the gross misconduct of the Iraqi pilot and minder that occurred on 4 June 1997 during the Commission's air operations flown in support of a ground inspection undertaken by UNSCOM 194.

When the Commission's aircraft was orbiting the inspection site, the Iraqi pilot threatened to shut off the fuel pump and, together with the Iraqi minder, physically attacked the Chief Air Inspector. The Iraqi pilot and minder loudly and repeatedly stated that no photographs were to be taken. Despite the evident right of the Commission to take photographs, every time an attempt was made to do so, the minder grabbed at the camera and manhandled both the photographer and Chief Air Inspector. At one point, when the Chief Inspector endeavoured to take a photograph out of the door of the helicopter, the minder grabbed hold of the camera and attempted to throw it out of the aircraft, stating that this was his intention. This behaviour is totally unacceptable. Not only was it irresponsible on the part of the Iraqi pilot and minder, but it also constituted an immediate threat to the lives of the Commission's personnel. It was a violation of Iraq's undertakings to guarantee the safety of the Commission's aircraft and personnel.

I am most distressed at this incident, which is yet another example of the actions impeding our flight operations, which I referred to in my letter to you of 14 March 1997. I need not repeat the points made in that letter, all of which are relevant to this incident. In our April 1997 meetings in Baghdad, I raised with you the various incidents that had occurred up to that time and warned that Iraq's deteriorating performance, both in the air and on the ground, called into question its commitments to the monitoring process. If the trend was not reversed, it could result in a situation with political consequences, whereby monitoring could no longer be considered operational. In response, you stated formally that Iraq was committed to ongoing monitoring and verification and that would not change. You said that Iraq wanted to have the monitoring process proceed correctly to the full satisfaction of the Commission, the International Atomic Energy Agency (IAEA) and the Security Council. I insisted, and the Iraqi side agreed, that the Commission's pilot was solely responsible for the operation of his aircraft and for its safety, and that it was totally unacceptable to try and settle disputes through physical action in flight.

It is with regret that I must note that this latest incident demonstrates that the undertakings you have given do not appear to have been translated to the lower echelons who deal with the Commission on a day-to-day basis. The incident to which I am referring is also of grave concern because the Iraqi pilot and minder appeared, once again, to have taken the position that there are certain areas in Iraq over which the Commission has no right to fly or to take

photographs related to its mandate. In my letter to you of 14 March 1997, I pointed out that the Commission had the right to conduct "helicopter flights throughout Iraq for all relevant purposes, including inspection, surveillance, aerial surveys, transportation and logistics without interference of any kind and upon such terms and conditions as may be determined by the Special Commission". These rights are given by the Security Council and could only be changed by the Council. Neither the Commission nor the Council have accepted that Iraq has the right to prohibit it to fly over the areas that Iraq described as "diplomatic" or "sensitive". In this case, photographs were required to document the departure from the site of an Iraqi helicopter in violation of the prohibition of such movements when an inspection is under way.

I must again request that you issue orders to the National Monitoring Directorate and to those who are responsible for providing pilots and minders for the Commission's helicopter operations to honour Iraq's commitments in respect of those operations. In my letter of 14 March, I demanded that the individuals involved in the various aerial incidents be removed from any duties associated with the work of the Commission and of IAEA. This does not appear to have been the case. For the future, I shall issue instructions that no Iraqi personnel who have engaged in activities that interfere with and threaten the safety of the Commission's flights shall be permitted on board the Commission's aircraft. Careful note will be taken of Iraqi personnel involved in flight operations so as to enforce this prohibition.

I have no doubt that this latest violation of the Commission's rights will be viewed with concern by the Security Council and that any further repetition will strengthen the fear that Iraq does not intend to carry out its obligations under the Council's resolutions. I await a response, which I hope will address effectively the repeated concerns that I have had to express regarding interference with the Commission's air operations.

(Signed) Rolf EKÉUS
Executive Chairman

Annex II

Letter dated 5 June 1997 from the Deputy Executive Chairman of the Special Commission Established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the Deputy Prime Minister of Iraq

I have been instructed by the Executive Chairman, who is away from New York, to write to you to protest most strongly yet another air incident, which occurred on 5 June 1997. In this case, the behaviour of an Iraqi co-pilot placed the lives of the crew and the safety of the aircraft in the most imminent danger.

The aircraft had been flying in support of a ground inspection by UNSCOM 194. In this incident, the Iraqi pilot, while the aircraft was navigating over the Tigris River in the area of Tikrit, first of all lunged at some of the switches on the centre console of the helicopter but was restrained by his seat-belt. He then undid his seat-belt and grabbed the co-pilot's control (cyclic stick), shaking it very violently. This extremely dangerous action led the Commission's pilot immediately to abort the mission on safety grounds and to return to Rasheed Air Base. The aircraft was therefore unable to carry out the mission with which it had been entrusted.

Whatever disagreement may occur as to the route of a particular flight, it has been agreed by both sides that physical interference with the flight is totally unacceptable. I am, therefore, instructed to inform you that the Iraqi pilot in question will not be permitted, in future, on any of the Commission's flights.

I wish to recall the Executive Chairman's statement in his letter to you of 14 March 1997 where he indicated that, if further air incidents were to occur, he would have to report them to the Security Council.

In view of these two most serious violations of the Commission's rights in two days, I am instructed to request that the Government of Iraq provide immediate written assurances that it has taken proper measures to avoid the recurrence of such violations. If such assurances are not forthcoming, the letter of yesterday's date and the present letter will be brought to the attention of the President of the Security Council.

(Signed) Charles DUELFER
Officer-in-Charge
Deputy Executive Chairman